IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.24446 of 2001

Dated: January 04, 2007

Between:

G. Surya Shankar Reddy, S/o. Veerabhadra Reddy,
Aged 42 years, Occ: Junior Field Officer, Indian
Farmers Fertiliser Cooperative Ltd., Hyderabad.

… Petitioner

And

The Deputy Superintendent of Police, Central
Bureau of Investigation (CBI), Hyderabad, and
Another.

… Respondents

Order:

The petitioner, a Junior Field Officer who was working in Indian Farmers Fertiliser Cooperative Ltd., (IFFCO Ltd.) Hyderabad, has filed this Writ Petition seeking a Writ of Certiorari to quash the First Information Report registered in Cr.No.Rc.6 (a)/99/H dated 16-06-1999 by the first respondent, the Central Bureau of Investigation (CBI) Hyderabad.

2. The petitioner was originally an employee of IFFCO Ltd., which is registered under the provisions of the Multi Unit Cooperative Societies Act, 1942 (Act 6/42). The said Act was subsequently repealed and a new Act, i.e. Multi State Cooperative Societies Act, 1984 (Act 51/84) came into force. In view of Section 2 of Act 51 of 84, the societies registered under the repealed Act are deemed to be covered under the new Act.

3. The CBI registered a case under Section 154 of the Criminal Procedure Code, against the petitioner and two others for the alleged offences under Sections 120-B, 409, 420, 468, 471 of the Indian Penal Code and Section 13(2) read with 13(1) (d) of Prevention of Corruption Act, 1988. It is alleged against the petitioner that during the period 1992-95, by adopting various methods, he gained pecuniary advantage for himself and other accused, and caused loss to the second respondent-society. It is alleged that petitioner has collected cash from various societies by giving fictitious receipts etc.

4. The CBI is constituted under the provisions of the Delhi Special Police Establishment Act, 1946. Under the scheme of the said Act, the Union Government is empowered to extend the provisions of the Act to any area for the investigation of any offence or class of offences in by issuing a notification under Section 3 of the said Act. The Government of India has issued notification dated 06-11-1986 in No.7/5/55-AVD notifying certain offences under the Indian Penal Code and also the offences punishable under the Prevention of Corruption Act, 1988, in which, the offences alleged against the petitioner are also covered. However, it is the case of the petitioner that the said authority has power to investigate only in respect of public servants as defined under the Prevention of Corruption Act, 1988, and, as the petitioner is

working in the second respondent-society, he cannot be treated as a public servant. In support of his plea reliance is placed on a judgment of a Division Bench of this court dated 26-09-2001 passed in W.A.No.1163 of 2001 wherein this court, while interpreting Section 129-A of the A.P. Cooperative Societies Act, 1964 vis-à-vis the provisions of the Prevention of Corruption Act, 1988, held that the term 'public servant' as defined under the Cooperative Societies Act, 1964 cannot be extended to the provisions of the Prevention of Corruption Act, 1988. However, the said judgment of this court has been reversed by the Supreme Court in the case of General **Manager, District Cooperative Central Bank Ltd. V. P. Venku Reddy**[1]**.** While interpreting the provisions under Section 2(c) of the Prevention of Corruption Act, 1988, the Supreme Court has held that the definition of 'public servant' should be interpreted with a purposive approach which would give effect to the intention of the legislation. It was further held that employees of a Cooperative Society, which is controlled or aided by the Government are covered within the comprehensive definition of 'public servant' as contained under Section 2(c) (iii) of the Prevention of Corruption Act, 1988. In that view of the matter, the only ground raised in this Writ Petition is covered to be rejected in view of the judgment of the Supreme Court referred supra.

5. It is submitted by Sri C. Padmanabha Reddy, learned senior counsel appearing for the petitioner that petitioner has also questioned the preliminary enquiries initiated against him, i.e. an enquiry under Section 51 of the A.P. Cooperative Societies Act, 1964, another enquiry under Section 74 of the Multi State Cooperative Societies Act, 1984 and the departmental enquiry in disciplinary proceedings before this court and this court by order dated 07-08-1997 while modifying the

earlier interim order, allowed the authorities to proceed with the enquiry subject to the condition that final result of the enquiry should be communicated to this court. It is submitted that in spite of such a direction, no report is submitted to this court and on the other hand, the first respondent-investigating authority is proceeding with the same set of material.

6. With regard to the above submission, it is to be noted that in the departmental proceedings, final orders were also passed by the respondents dismissing the petitioner from service. In any event, there is no hard and fast rule, which prohibits proceeding with the investigation when other enquiries are pending consideration. As much as final orders have already been passed in the disciplinary proceedings initiated against the petitioner, I do not find any valid ground to interdict the proceedings, pursuant to registration of crime in Cr.No. (a)/99/H dated 16-06-1999, at this stage and quash the FIR itself.

7. The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

January 04, 2007
MRR

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[1] **(2002) 7 SCC 631**